

Assembly Bill No. 2018

Passed the Assembly August 21, 2014

Chief Clerk of the Assembly

Passed the Senate August 14, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 10159.5 of, and to add Sections 10159.6 and 10159.7 to, the Business and Professions Code, relating to real estate licensees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2018, Bocanegra. Real estate licensees: fictitious business names.

Existing law provides for the licensure and regulation of real estate brokers and real estate salespersons by the Bureau of Real Estate headed by the Real Estate Commissioner. Existing law requires an applicant who desires to have his or her license issued under a fictitious business name to file with his or her application a certified copy of his or her fictitious business name statement. Under existing law, any violation of these provisions is a misdemeanor.

This bill would authorize a responsible broker, as defined, by contract, to permit a salesperson to apply for a fictitious business name with the appropriate county and the bureau, to be identified with that responsible broker's license number, and to maintain ownership of a fictitious business name, as defined. The bill would define a team name and provide, for purposes of the provisions described above, that a team name is not a fictitious business name if the name is used by two or more real estate licensees, the name includes a licensee's surname in conjunction with the term "associates," "group," or "team," and the name does not include any term or terms that imply or suggest the existence of a real estate entity independent of a responsible broker. The bill would require advertising that contains a team name, including print or electronic media and "for sale" signage, to include certain identifying information in a conspicuous manner.

This bill would provide that a violation of the provisions described above is not a misdemeanor.

The people of the State of California do enact as follows:

SECTION 1. Section 10159.5 of the Business and Professions Code is amended to read:

10159.5. (a) Every person applying for a license under this chapter who desires to have the license issued under a fictitious business name shall file with his or her application a certified copy of his or her fictitious business name statement filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.

(1) A responsible broker may, by contract, permit a salesperson to do all of the following:

(A) File an application on behalf of a responsible broker with a county clerk to obtain a fictitious business name.

(B) Deliver to the bureau an application, signed by the responsible broker, requesting the bureau's approval to use a county approved fictitious business name that shall be identified with the broker's license number.

(C) Pay for any fees associated with filing an application with a county or the bureau to obtain or use a fictitious business name.

(D) Maintain ownership of a fictitious business name, as defined in paragraph (2) of subdivision (a) of Section 10159.7, that may be used subject to the control of a responsible broker.

(b) (1) A salesperson using a fictitious business name authorized by subdivision (a), shall use that name only as permitted by his or her responsible broker.

(2) This section does not change a real estate broker's duties under this division to supervise a salesperson.

(c) A person applying to a county for a fictitious business name pursuant to subdivision (a) may file his or her application in the county or counties where the fictitious business name will be used.

(d) Marketing and solicitation materials, including business cards, print or electronic media and "for sale" signage, using a fictitious business name obtained in accordance with subdivision (a) shall include the responsible broker's identity in a manner equally as prominent as the fictitious business name.

(e) Notwithstanding subdivision (b) of Section 10140.6, advertising, including print or electronic media and "for sale" signage, containing a fictitious business name obtained in

accordance with subdivision (a) shall include the salesperson's name and license number.

(f) Notwithstanding Section 10185, a violation of this section is not a misdemeanor.

SEC. 2. Section 10159.6 is added to the Business and Professions Code, to read:

10159.6. All of the following apply to use of a team name, as defined in paragraph (5) of subdivision (a) of Section 10159.7:

(a) Notwithstanding subdivision (b) of Section 10140.6, advertising that contains a team name, including print or electronic media and "for sale" signage, shall include the licensee's name and license number in all advertising, and shall be displayed in a conspicuous manner.

(b) The responsible broker's identity shall be displayed as prominently and conspicuously as the team name in all advertising.

(c) The advertising material shall not contain terms that imply the existence of a real estate entity independent of the responsible broker.

(d) Notwithstanding Section 10185, a violation of this section is not a misdemeanor.

SEC. 3. Section 10159.7 is added to the Business and Professions Code, to read:

10159.7. (a) For the purposes of this article, the following definitions shall apply:

(1) "Broker identity" means the name under which the broker operates or conducts business and may include a sole proprietorship or business entity name.

(2) "Fictitious business name" means a professional identity or brand name under which activity requiring a real estate license is conducted and the use of which is subject to approval by the bureau pursuant to Section 10159.5.

(3) "Ownership of a fictitious business name" means the right to use, renew, and control the use of a fictitious business name obtained in accordance with Section 10159.5.

(4) "Responsible broker" means the broker responsible for the exercise of control and supervision of salespersons under Section 10159.2, or a licensee subject to discipline under subdivision (h) of Section 10177 for failure to supervise activity requiring a real estate license. The supervision of a salesperson required under this part is limited to regulatory compliance and consumer protection.

(5) “Team name” means a professional identity or brand name used by a salesperson, and one or more other real estate licensees, for the provision of real estate licensed services. Notwithstanding any other law, the use of a team name does not require that a separate license be issued for that name pursuant to Section 10159.5. A team name does not constitute a fictitious business name for purposes of this part if all of the following apply:

(A) The name is used by two or more real estate licensees who work together to provide licensed real estate services, or who represent themselves to the public as being a part of a team, group, or association to provide those services.

(B) The name includes the surname of at least one of the licensee members of the team, group, or association in conjunction with the term “associates,” “group,” or “team.”

(C) The name does not include any term or terms, such as “real estate broker,” “real estate brokerage,” “broker,” or “brokerage” or any other term that would lead a member of the public to believe that the team is offering real estate brokerage services, that imply or suggest the existence of a real estate entity independent of a responsible broker.

(b) Nothing in this section changes a real estate broker’s duties under this division to supervise a salesperson.

Approved _____, 2014

Governor